

Illinois Credit Union League

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VIA E-MAIL TRANSMISSION

September 21, 2009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Docket No. R-1364 - Interim Final Rule on Implementation of the CARD Act

Dear Ms. Johnson:

The Illinois Credit Union League represents over 400 credit unions in Illinois. We are pleased to respond on behalf of our member credit unions to the Interim Final Rule amending Regulation Z regarding periodic statements for all open-end loans.

The interim final rule, effective August 20, 2009, prohibits credit unions and other open-end lenders from charging a late fee (or from otherwise considering the payment as late for any purpose) on any open-end consumer credit accounts unless the statements are mailed or delivered at least 21 days before the payment is due. The amendments to Regulation Z, Truth in Lending, published January 29, 2009 included a requirement that credit card statements must be mailed to credit card holders at least 21 days prior to the payment due date.

Credit unions supported the January 29, 2009 requirement regarding credit card statements and almost all credit unions routinely mailed credit card statements at least 21 day prior to the payment due date prior to the new regulation.

However the imposition of the 21-day requirement on all open end consumer accounts subjects credit unions offering multi-featured open-end plans to onerous, and in some cases almost insurmountable requirements and the changes will inconvenience and in some cases increase the interest paid by consumers. (Many credit union members make weekly or biweekly payments via payroll deduction. More frequent payment (and thereby more frequent reductions of principal) reduces the total interest charged.

Credit union data processors are also struggling to help address the numerous processing issues created by the application of the 21-day rule to all open-end plans.

It is unfortunate that the Board has declined to take such action to ameliorate the substantial disruptions the 21-day rule will have on the operations of many credit unions and the confusion it will cause consumers that are credit union members who in many cases have chosen their own payment due dates to fit their income patterns and budgets. We believe the Board has the authority under TILA to help credit unions deal with their compliance difficulties.

Perhaps the Board could provide an exemption for payments made pursuant to a voluntary payroll deduction plan or a voluntary agreement by the consumer authorizing the payment a time other than the last portion of a statement period. We refer the Board to §226.17(c) of Regulation Z and the Official Staff Commentary thereto. That section, for purposes of closed-end disclosures, distinguishes between the “legal obligation” and an agreement between the creditor and consumer unless the agreement “legally modifies the note or contract. If the parties informally agree to a modification of the legal obligation, the modification should not be reflected in the disclosures unless it rises to the level of a change in the terms of the legal obligation. For example:...If the contract provides for a certain monthly payment schedule but payments are made on a voluntary payroll deduction plan or an informal principal-reduction agreement, the disclosures should reflect the schedule in the contract.” (Comment 17(c)(1)-2 of the Official Staff Commentary on Regulation Z.)

This Comment instructs creditors to make disclosures based on the “legal obligation” (i.e., monthly payments) even though payments will be made weekly or biweekly pursuant to a voluntary payroll deduction plan.

ICUL and the Credit Union National Association continue to work with key congressional offices to achieve an amendment that will narrow the reach of the 21-day rule or extend the compliance date. We are aware that the Board has previously issued regulations with subject to congressionally mandated effective date but provide a later date for “mandatory compliance. Given the unforeseen consequences (mentioned in Senator Dodd’s letter to Chairman Bernanke) with respect to the application of the 21-day requirement to credit union multi-featured open-end programs we urge the Board to provide an extended mandatory compliance date with respect to those plans or specifically allow payments other than the contractual payments pursuant to voluntary payroll deduction plans or if the borrower voluntarily chooses a different payment date.

We appreciate the opportunity to respond to the Board’s request for comment on the interim final rule imposing certain provisions of the Credit Card Act. We will be happy to respond to any questions regarding these comments.

Very truly yours,

ILLINOIS CREDIT UNION LEAGUE

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